



STATE OF CALIFORNIA  
THE RESOURCES AGENCY  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

## License for Diversion and Use of Water

APPLICATION 22999

PERMIT 15692

LICENSE 11041

**THIS IS TO CERTIFY, That** J. B. SCHWANER  
3683 ATLAS PEAK ROAD, NAPA, CALIFORNIA 94558

HAS made proof as of JUNE 14, 1979 (the date of inspection)  
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of  
AN UNNAMED STREAM IN NAPA COUNTY

tributary to MILLIKEN CREEK THENCE NAPA RIVER THENCE SAN PABLO BAY

for the purpose of IRRIGATION, RECREATIONAL, STOCKWATERING AND FIRE PROTECTION USES  
under Permit 15692 of the Board and that the right to the use of this water has been perfected  
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the  
priority of this right dates from FEBRUARY 28, 1968 and that the amount of water to which  
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated  
purposes and shall not exceed FORTY-EIGHT (48) ACRE-Feet PER ANNUM, TO BE COLLECTED  
FROM NOVEMBER 1 OF EACH YEAR TO MAY 15 OF THE SUCCEEDING YEAR. THE MAXIMUM WITH-  
DRAWAL IN ANY ONE YEAR SHALL NOT EXCEED 48 ACRE-Feet.

THIS LICENSE DOES NOT AUTHORIZE COLLECTION OF WATER TO STORAGE OUTSIDE OF THE  
SPECIFIED SEASON TO OFFSET EVAPORATION AND SEEPAGE LOSSES OR FOR ANY OTHER PURPOSE.

0000005

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

CIRCLE S DAM: NORTH 340 FEET AND WEST 2500 FEET FROM SE CORNER OF SECTION 26,  
T7N, R4W, MDB&M, BEING WITHIN SW1/4 OF SE1/4 OF SAID SECTION 26.

A DESCRIPTION OF LANDS OR THE PLACE WHERE  
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

RECREATIONAL, FIRE PROTECTION AND STOCKWATERING USES AT CIRCLE S RESERVOIR WITH-  
IN THE SW1/4 OF SE1/4 AND THE SE1/4 OF SW1/4 OF SECTION 26 AND THE N1/2 OF NW1/4  
OF SECTION 35, BOTH IN T7N, R4W, MDB&M; AND IRRIGATION AS FOLLOWS:

94.3 ACRES NET WITHIN A GROSS AREA OF 1600 ACRES IN SECTION 30 AND 31, T7N, R3W,  
MDB&M, AND SECTIONS 25, 26, 35 AND 36, T7N, R4W, MDB&M, AS SHOWN ON MAP FILED

4/4/97 assigned to Robert E.  
Hopkins and Toni T. Hopkins  
Trust

*Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.*

*All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.*

*Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.*

*The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.*

*This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:*

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: JUNE 4 1980

STATE WATER RESOURCES CONTROL BOARD

Walter G. Pettit  
Chief, Division of Water Rights

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

---

In the Matter of License 11041 (Application 22999)

**Jasmine Ball Schwaner**

**ORDER ISSUING AMENDED LICENSE**

---

SOURCE: Unnamed Stream tributary to Milliken Creek

COUNTY: Napa

---

**WHEREAS:**

1. License 11041 was issued pursuant to permitted Application 22999 on June 4, 1980, and was recorded with the County Recorder of Napa County on June 9, 1980, in Volume 1165, Pages 591 and 592. Recording of this license, and subsequent orders issued thereto, is prescribed by Water Code section 1650.
2. The Division of Water Rights (Division) record of ownership for License 11041 shows the current holder of the license as Jasmine Ball Schwaner.
3. The Division conducted an inspection of the project covered by License 11041 on August 21, 2001.
4. The State Water Resources Control Board (SWRCB) has determined that the license shall be amended to include correction in the description of the place of use.
5. The SWRCB standard license terms pertaining to continuing authority, water quality objectives, protection of endangered species, and the need for State Department of Fish and Game stream alteration agreement shall be updated or added to the amended license.
6. The SWRCB has determined the amended license does not constitute an initiation of a new right, and does not injure prior rights or the public trust resources of the State.

**THEREFORE, IT IS ORDERED:**

The attached Amended License 11041 is issued, superseding former License 11041 issued on June 4, 1980. The priority of Amended License 11041 is February 28, 1968.

STATE WATER RESOURCES CONTROL BOARD

*David R. Bevinger*  
for Edward C. Anton, Chief  
Division of Water Rights

Dated: MAR - 5 2002



STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**Amended License for Diversion and Use of Water**

APPLICATION 22999  
Page 1 of 4

PERMIT 15692

LICENSE 11041

**THIS IS TO CERTIFY, That**

Jasmine Ball Schwaner  
P.O. Box 13112  
Oakland, CA 94661

has the right to the use of the waters of an **Unnamed Stream** in **Napa County**

tributary to **Milliken Creek** thence **Napa River** thence **San Pablo Bay**

for the purpose of **Irrigation, Stockwatering, Recreational and Fire Protection uses.**

**Amended License 11041** supersedes the license originally issued on **June 4, 1980**, which was perfected in accordance with the laws of California, the Regulations of the State Water Resources Control Board (SWRCB), or its predecessor, and the terms of **Permit 15692**. The priority of this right dates from **February 28, 1968**. Proof of maximum beneficial use of water under this license was made as of **June 14, 1979** and **August 21, 2001** (the dates of inspection).

The amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **forty-eight (48) acre-feet per annum to be collected from November 1 of each year to May 15 of the succeeding year. The maximum withdrawal in any one year shall not exceed 48 acre-feet.**

The capacity of Circle S Reservoir covered by this license and License 11507 (Application 24836) shall not exceed 131 acre-feet.

This license does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

Unless a change is approved by the SWRCB, water used under this license may be diverted, rediverted, stored and used only as specified below:

**THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:**

Circle S Dam: North 340 feet and West 2,500 feet from SE corner of Section 26, T7N, R4W, MDB&M, being within SW¼ of SE¼ of said Section 26.

**A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:**

Stockwatering, Recreational and Fire Protection uses at Circle S Reservoir within SW $\frac{1}{4}$  of SE $\frac{1}{4}$  and SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 26 and N $\frac{1}{2}$  of NW $\frac{1}{4}$  of Section 35, all within T7N, R4W, MDB&M; and Irrigation use as follows:

- 8.0 acres within SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 26, T7N, R4W, MDB&M
- 8.1 acres within SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 26, T7N, R4W, MDB&M
- 1.6 acres within NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 35, T7N, R4W, MDB&M
- 15.5 acres within NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 35, T7N, R4W, MDB&M
- 1.5 acres within SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 25, T7N, R4W, MDB&M
- 36.1 acres within NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 36, T7N, R4W, MDB&M
- 5.0 acres within NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 36, T7N, R4W, MDB&M
- 2.8 acres within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 36, T7N, R4W, MDB&M
- 0.9 acres within SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 36, T7N, R4W, MDB&M

79.5 acres total, as shown on the map dated November 2001, on file with the SWRCB.

Licensee shall maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the Chief of the Division of Water Rights in order that water entering the reservoir which is not authorized for appropriation under this license may be released.

(0050043)

Water entering the reservoir or collected in the reservoir during and after the current storage season shall be released into the downstream channel to the extent necessary to satisfy downstream prior rights and/or to the extent that appropriation of water is not authorized under this license.

---

*The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.*

*Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the SWRCB.*

*Licensee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms of this license.*

*Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.*

*The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.*

*The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.*

*The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.*

*This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.*

*If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.*

*This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:*

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the SWRCB.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.


Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

STATE WATER RESOURCES CONTROL BOARD

  
for Edward C. Anton, Chief  
Division of Water Rights

Dated: MAR - 5 2002